

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2019-0202]

RIN 3150-AK39

**List of Approved Spent Fuel Storage Casks: TN Americas LLC,
Standardized NUHOMS® Horizontal Modular Storage System
Certificate of Compliance No. 1004,
Renewed Amendment No. 16**

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations by revising the TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System (Standardized NUHOMS® System) listing within the “List of approved spent fuel storage casks” to include Renewed Amendment No. 16 to Certificate of Compliance No. 1004. This amendment used a qualitative risk-informed approach (graded approach criteria) to streamline the format and content of the certificate of compliance. Renewed Amendment No. 16 does not include any design or fabrication changes to the Standardized NUHOMS® System.

DATES: Submit comments by July 30, 2020. Comments received after this date will be

considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0202. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Norma Garcia Santos, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-6999; e-mail: Norma.GarciaSantos@nrc.gov or Torre Taylor, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-7900; e-mail: Torre.Taylor@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2019-0202 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0202.
- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[Begin Web-based ADAMS Search](#).” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.
- **Attention:** The [Public Document Room \(PDR\)](#), where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via e-mail at PDR.Resource@nrc.gov or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

Please include Docket ID NRC-2019-0202 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*. The direct final rule will become effective on August 14, 2020. However, if the NRC receives any significant adverse comments by July 30, 2020, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3) The comment causes the NRC to make a change (other than editorial) to the rule.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that "[t]he Secretary [of the Department of Energy] shall establish a demonstration

program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the Nuclear Waste Policy Act states, in part, that “[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled “Approval of Spent Fuel Storage Casks,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898), that approved the Standardized NUHOMS® System design and added it to the list of NRC-approved cask designs provided in § 72.214 as Certificate of Compliance No. 1004.

On June 29, 2017, TN Americas LLC submitted a request to the NRC to amend Certificate of Compliance No. 1004. TN Americas LLC supplemented its request on the following dates: August 31, 2017; October 13, 2017; November 16, 2017; April 26, 2018; June 7, 2018; September 3, 2019; September 6, 2019; September 10, 2019; and September 11, 2019. Because this amendment is subsequent to TN Americas LLC’s Standardized NUHOMS® System, Certificate of Compliance No. 1004 renewal, it is subject to the Aging Management Program requirements of the renewed certificate of compliance; therefore, it is referred to as “Renewed Amendment No. 16.” Renewed

Amendment No. 16 contains no design or fabrication changes to the Standardized NUHOMS® System; rather, the applicant requested changes to the format and content of the certificate.

This amendment application was used as a pilot project to apply a qualitative risk-informed approach (using the “graded approach criteria”) that could be used to streamline the format and content of certificates of compliance. In 2016 and 2017, the NRC coordinated with external stakeholders through a series of public workshops to explore options for achieving efficiencies through changes to the format and content of certificates of compliance. The information obtained from those workshops supported development of risk-informed graded approach criteria to streamline the format and content of a certificate of compliance for a spent fuel storage system. The graded approach criteria help determine the level of detail and location of information that should be included in a certificate of compliance for a spent fuel dry storage cask design. Chapter 2 of the preliminary safety evaluation report for this amendment discusses the development of the graded approach criteria in more detail, including information on the public meetings that were held and how the criteria were applied in review of this amendment request. The graded approach is further described in Regulatory Issue Resolution Protocol I-16-01. The NRC recently endorsed the graded approach criteria by letter to the Nuclear Energy Institute, dated January 8, 2020. For additional information about this amendment, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this

document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

DOCUMENT	ADAMS ACCESSION NO., (ADAMS PACKAGE ACCESSION NO.), OR <i>FEDERAL REGISTER</i> CITATION
Areva Inc.’s (former name of TN Americas LLC) Request to Make Changes to Certificate of Compliance 1004, Amendments 0 – 11 and 13; dated August 24, 2015	(ML15239A718)
Letter from P. Triska, Areva, to the NRC; Response to Request for Additional Information; dated February 9, 2016	(ML16054A214)
Letter from P. Triska, Areva, to the NRC; Response to Request for Additional Information; dated February 9, 2016	(ML16054A226)
Letter from R. McCullum/NEI to M. Layton/NMSS/DSFM re: Regulatory Issue Protocol Screening Form and Resolution Plan for Improving the Part 72 Regulatory Framework (RIRP-I-16-01), dated, May 12, 2017	ML17138A119
TN Americas LLC Request to Add Amendment No. 16 to Certificate of Compliance No. 1004; letter dated June 29, 2017	(ML17191A227)
TN Americas LLC Request to Add Amendment No. 16 to Certificate of Compliance No. 1004; supplemental letter dated August 31, 2017	(ML17249A001)
TN Americas LLC; Certificate of Compliance No. 1004, Renewed Amendment No. 14; letter dated September 27, 2017	82 FR 44879

TN Americas LLC Request to Add Amendment No. 16 to Certificate of Compliance No. 1004; supplemental letter dated October 13, 2017	(ML17304A278)
TN Americas LLC Request to Add Amendment No. 16 to Certificate of Compliance No. 1004; supplemental letter dated November 16, 2017	(ML17325A408)
TN Americas LLC Request to Add Amendment No. 16 to Certificate of Compliance No. 1004; supplemental letter dated April 26, 2018	(ML18124A195)
TN Americas LLC Request to Add Amendment No. 16 to Certificate of Compliance No. 1004; supplemental letter dated June 7, 2018	ML18162A093
TN Americas LLC Request to Add Amendment No. 16 to Certificate of Compliance No. 1004; supplemental letter dated September 3, 2019	(ML19255E934)
E-mail from D. Shaw (TN Americas LLC) to N. Garcia Santos (NRC) RE: Certificate of Compliance No. 1004, Amendment 16 (NUHOMS®) - NRC Clarification of Terminology in Certificate of Compliance; Dated September 6, 2019	ML19252A394
TN Americas LLC Request to Add Amendment No. 16 to Certificate of Compliance No. 1004, Form 74 – Correction to Appendix A of the Certificate of Compliance, dated, September 10, 2019	(ML19253C390)
TN Americas LLC Request to Add Amendment No. 16 to Certificate of Compliance No. 1004, Form 29 - Correction to Appendix A and B of the Certificate of Compliance; dated, September 11, 2019	(ML19254C951)
TN Americas LLC Amendment No. 16 to Certificate of Compliance No. 1004	ML19262E160
Technical Specifications for TN Americas LLC Amendment No. 16 to Certificate of Compliance No. 1004	ML19262E154, ML19262E156, and ML19262E158
Preliminary Safety Evaluation Report for TN Americas LLC Amendment No. 16 to Certificate of Compliance No. 1004	ML19262E161
Letter from A. Kock, NMSS/DFM, to R. McCullum, NEI, Endorsement of Graded Approach Criteria; dated January 8, 2020	(ML19353D337)

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking Web site at <https://www.regulations.gov> under Docket ID NRC-2019-0202. The Federal Rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: 1) navigate to the docket folder NRC-2019-0202; 2) click the "Sign up for E-mail Alerts" link; and 3) enter your e-mail address and select how frequently you would like to receive e-mails (daily, weekly, or monthly).

Dated June 16, 2020.

For the Nuclear Regulatory Commission.

/RA/

Margaret Doane,
Executive Director of Operations.